

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Ziech et al.

Serial No.: 10/813,713

Group Art Unit: 3616

Filed: 03/31/2004

Examiner: Webb, T.

For: Beam Axle Suspension With Diagonal Link

Atty. Dkt. No.: 60,680-636

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**REPLY TO RESTRICTION/ELECTION REQUIREMENT
UNDER 35 U.S.C. § 121**

Dear Sir:

This paper is responsive to the Office Action mailed March 31, 2006.

REMARKS

I. INTRODUCTION

Claims 1-20 are presently pending in this application. Applicants respectfully request further examination and reconsideration of the application.

II. ELECTION OF SPECIES OF INVENTION

Applicants hereby elect, with traverse, the species shown in Figure 1-6 (Species I) of the application. Applicants submit that claims 1-4 and 18 are generic to the species identified as Species I, II and III by the Examiner. Further, Applicants submit that each of claims 1-5, 10-13, 18 and 20 reads onto the elected Species I.

III. TRAVERSAL

The requirement for an election of species for prosecution on the merits is respectfully traversed. A proper restriction requirement requires the Examiner to establish that (A) the inventions are independent or distinct as claimed and (B) *there*

would be serious burden on the examiner if restriction is not required.. MPEP § 803 (“If the search and examination of ~~**~~>all the claims in an< application can be made without serious burden, the examiner must examine ~~*~~>them< on the merits even though ~~**~~>they include< claims to independent or distinct inventions.”). Applicants respectfully submit that the Examiner has failed to make any showing whatsoever that a serious burden would result if a restriction is not required. In fact, the entire basis for the restriction requirement is contained in a single sentence:

“This application contains claims directed to the following patentably distinct species: Species I: Figures 1-6, Species II: Figures 7-8, Species III: Figures 9-10”

No further rationale is provided. Because the Examiner has failed to establish a “serious burden” on the Examiner if a restriction is not required, Applicants submit that the restriction requirement is not proper and request that the requirement be withdrawn.

If the Examiner has any further questions regarding the matter, the Examiner is directed to contact Applicant’s undersigned attorney.

Respectfully submitted,



William F. Kolakowski III
Registration No. 41908
Customer No. 26,127
DYKEMA GOSSETT PLLC
39577 Woodward Ave., Ste. 300
Bloomfield Hills, MI 48304
(248) 203-0822
Attorney for Applicant